

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE  
NODDING ONION, LLC ZONE CHANGE REQUEST  
ZONING MAP AMENDMENT REPORT (#FZC-11-02)  
JULY 27, 2011**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Nodding Onion, LLC for a zoning map amendment in the Lower Side zoning district. The proposed amendment would change the zoning on the subject property from “I-1H Light Industrial Highway” to “I-2 Heavy Industrial”.

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on August 10<sup>th</sup>, 2011 in the 2<sup>nd</sup> Floor Conference Room of the Earl Bennett Building located at 1035 1<sup>st</sup> Ave West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will also hold a public hearing on the proposed zoning map amendment at a date and time yet to be determined. Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue West, in Kalispell. Prior to the Commissioner’s public hearing, documents pertaining to the zoning map amendment(s) will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

**I. APPLICATION REVIEW UPDATES**

**A. Land Use Advisory Committee/Council**

The proposed zoning map amendment is not located within the advisory jurisdiction of a specific local land use advisory committee.

**B. Planning Board**

The Flathead County Planning Board will hold a public hearing on August 10<sup>th</sup>, 2011 beginning at 6:00 P.M. in the 2<sup>nd</sup> floor conference room of the Earl Bennett Building, to review the zoning map amendment request. This space is reserved for a summary of the Flathead County Planning Board’s discussion and recommendation following the public hearing.

**C. Commission**

The Flathead County Commissioners will hold a public hearing on the proposed zoning map amendment request at a date and time to be determined following the Planning Board hearing. This space is reserved for a summary of the Commission’s discussion and decision.

**II. GENERAL INFORMATION**

**A. Application Personnel**

**i. Applicant**

Nodding Onion, LLC  
P.O. Box 2492  
Kalispell, MT 59903

**ii. Technical Representation**  
(none)

**B. Subject Property Location and Legal Description**

The subject property is located at the southwest corner of Demersville Road and Snowline Lane, east of US Highway 93 (see Figure 1 below). The address of the subject property is 996 Demersville Road, and the tract of land is approximately 7 acres in size. The property can legally be described as Tract 4D in the SE ¼ SW ¼ of Section 33, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

**Figure 1:** Subject property highlighted in red.

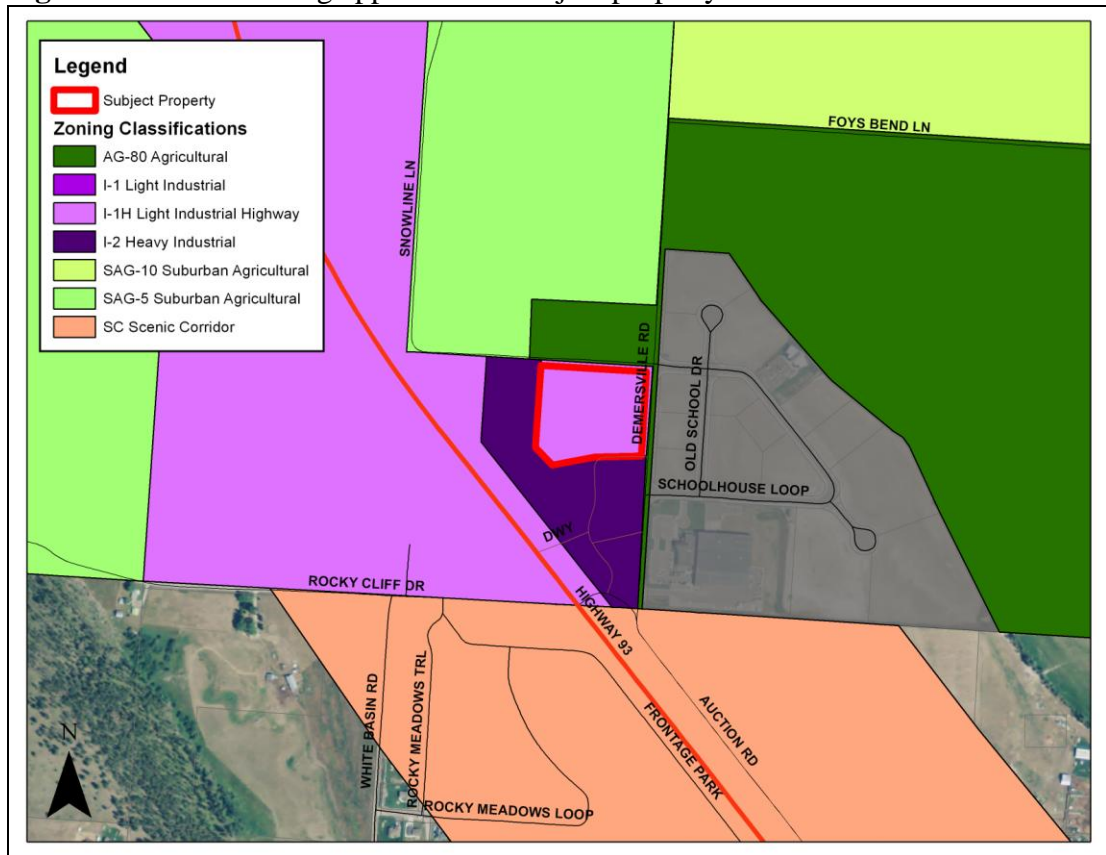


**C. Proposed Zoning Map Amendment**

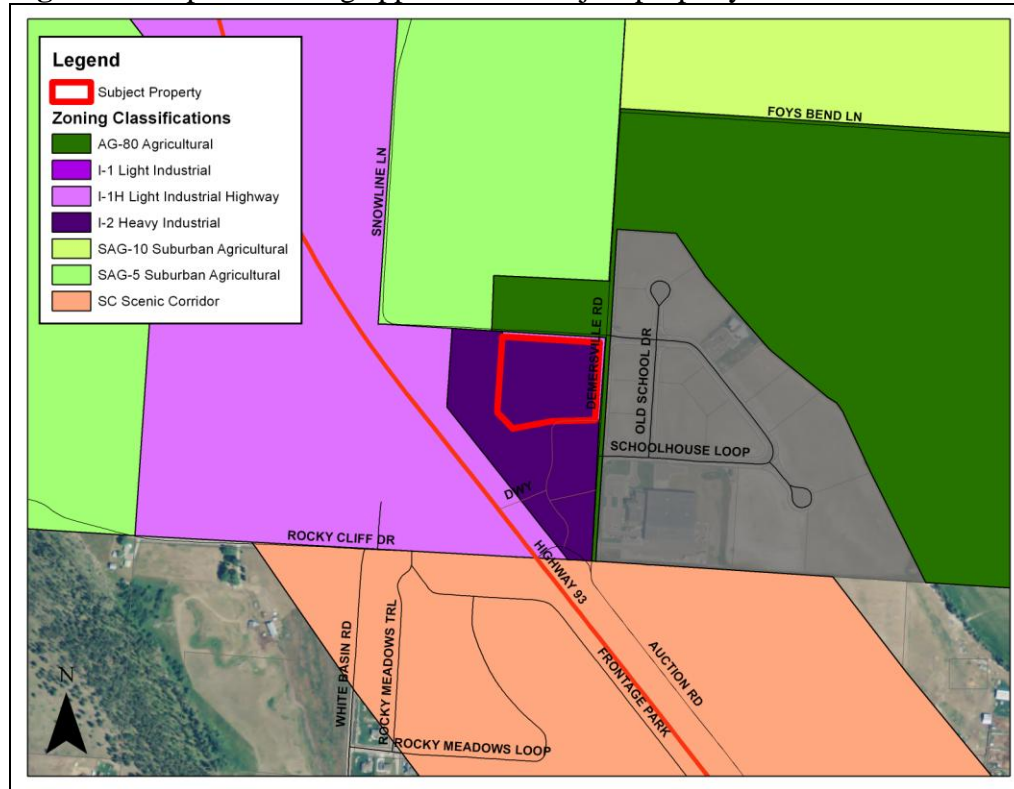
The subject property is located within the Lower Side zoning district and is currently zoned “I-1H Light Industrial Highway” (see Figure 2 below). I-1H zoning is defined as an area “for light industrial uses and service uses that typically do not create objectionable by-products that extend beyond the lot lines. The district is intended for industrial areas which are located along state and federal highways and contain greater levels of performance and mitigation utilizing increased setbacks, landscape buffering, access control and signage restriction for the purpose of protecting the County’s major travel ways from unnecessary encroachments, limiting access points to encourage improved traffic flows and to preserve scenic corridors and entrance

ways to major communities [Section 3.28.010 FCZR].” The applicant has requested a zoning map amendment to convert the property to “I-2 Heavy Industrial”, similar to the zoning applicable to neighboring properties located west and south (see Figure 3 below). I-2 zoning is defined as “a district to provide for industrial uses to accommodate heavy manufacturing, processing, fabrication, and assembly of parts or materials. It is also intended that the encroachment of non-industrial or unspecified commercial uses within the district be prevented [Section 3.29.010 FCZR].”

**Figure 2:** Current zoning applicable to subject property.



**Figure 3:** Proposed zoning applicable to subject property.



#### **D. General Character of and Reason for Amendment**

The applicant has requested a zoning map amendment to change the zoning on the property from “I-1H Light Industrial Highway” to “I-2 Heavy Industrial”. This change would allow for greater flexibility in the use of the property in the future, as adjacent properties to the west and south are similarly zoned “I-2 Heavy Industrial” and share access road easements with the subject property off of Snowline Lane and Demersville Road. Design standards specific to the I-1H zoning classification require all private drives, access roads and parking areas to be hard-surfaced using either asphalt or concrete; the requested zone change to I-2 would alleviate this requirement and allow the property to adhere to the same design standards applicable to neighboring heavy industrial properties.

#### **E. Adjacent Zoning and Character of the Overall Zoning District**

As shown in Figures 2 and 3 above, applicable zoning in the area surrounding the subject property is a mix of industrial and agricultural designations. Properties to the immediate west and south are zoned “I-2 Heavy Industrial”; property to the east across Demersville Road is located within the City of Kalispell’s planning jurisdiction but is zoned “I-1 Light Industrial”. Across Snowline Lane to the north there is “AG-80 Agricultural” and “SAG-5 Suburban Agricultural” zoning in place. Land uses in the area generally reflect the current zoning, with the Old School Station industrial park located across Demersville Road to the east, a granite cutting operation located directly west, a lumber processing plant and propane distribution center located

to the south of the subject property, and a residence with associated outbuildings surrounded by undeveloped grazing land to the immediate north (see Figure 4 below).

**Figure 4:** Land uses surrounding the subject property.



When an application appears to have the potential for spot zoning, the “three part test” established by legal precedent in the case of *Little v. Board of County Commissioners* is reviewed specific to the requested map amendment. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a brief review of the three-part test in relation to this application.

1. *The zoning allows a use that differs significantly from the prevailing use in the area.*

The prevailing use in the surrounding area appears to be industrial, with a range in intensity from light to heavy industrial use. As previously discussed, properties to the west and south are zoned “I-2 Heavy Industrial”, while property to the immediate east across Demersville Road is within the City of Kalispell’s jurisdiction but is zoned “I-1 Industrial” under the City’s zoning ordinance. A change in zoning from I-1H to I-2 on the subject property would not result in uses differing significantly from the prevailing industrial character of the area.

2. *The zoning applies to a small area or benefits a small number of separate landowners.*

The zoning map amendment would apply to the entire 7 acre tract that is under single ownership.

3. *The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.*

Although it would only apply to one property, the proposed change from I-1H to I-2 would result in the subject property being similarly zoned with respect to the neighboring properties to the south and west.

In summary, the proposed zoning map amendment does not appear to be spot zoning because it fails to meet all three criteria as required.

#### **F. Public Services and Facilities**

Sewer:	Multi-user septic system
Water:	One shared well, one multi-user well
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Somers School District (K-8); Flathead School District (9-12)
Fire:	Somers/Lakeside Fire District
Police:	Flathead County Sheriff's Office

#### **G. Criteria Used for Evaluation of Proposed Amendment**

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

#### **H. Compliance With Public Notice Requirements**

Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on July 18<sup>th</sup>, 2011. Legal notice of the Planning Board public hearing on this application was published in the July 24<sup>th</sup>, 2011 edition of the Daily Interlake.

Following the Planning Board hearing on August 10<sup>th</sup>, 2011, public notice of the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 M.C.A.]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the date, time and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

## **I. Agency Referrals**

Referrals were sent to the following agencies on May 25<sup>th</sup>, 2011:

- Flathead County Public Works/Flathead County Road Department
  - Reason: The zone change request has the potential to impact County infrastructure because the subject property has direct access onto two County-maintained public roads.
- Flathead City-County Health Department; Environmental Health Services
  - Reason: The subject property currently utilizes private well and septic facilities.
- Flathead County Solid Waste Department
  - Reason: The type and amount of solid waste resulting from uses permitted within the requested the zoning classification could have an impact on existing public services.
- Somers-Lakeside Fire District
  - Reason: The subject property is located within the jurisdiction of the local fire district and the types of uses permitted in the proposed zoning classification could impact the level of service available.
- Flathead County Sheriff's Department
  - Reason: The subject property is currently served, and would continue to be served by the County Sheriff's Department in the event of an emergency.
- Montana Department of Transportation
  - Reason: The subject property is located in close proximity to US Highway 93, and traffic resulting from the uses permitted within the proposed zoning classification could have an impact on existing highway infrastructure.

## **III. COMMENTS RECEIVED**

### **A. Public Comments**

As of the date of the completion of this staff report, no written public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment will do so at the Planning Board public hearing scheduled for August 10<sup>th</sup>, 2011. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

### **B. Agency Comments**

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Dave Prunty, Director; Flathead County Road & Bridge Department
  - Comment: At this point the County Road Department does not have any comments on this request.
- Glen Gray, R.S.; Flathead City-County Health Department
  - Comment: The current approval of the parcel was reviewed by this office and the Subdivision Section of the Department of

Environmental Quality (DEQ); the Certificate of Subdivision Approval (COSA) defines the conditions of approval.

- Property was approved for limited commercial use, to include five commercial buildings, four of which are described as duplex units, each with a maximum employee number of six; a shop building with no more than three employees; a commercial building with no more than ten employees; and a mini-storage building not to have water and sewer services.
- The parcel is currently approved to be served by on-site water and sewer services; one shared well (two connections, thirteen people) and one multi-user well (four connections, twenty-four people). *These numbers cannot change in terms of connections or people served without a subsequent DEQ review.*
- The COSA specifically states that wastewater will be of “residential strength”; therefore a change in use from commercial to industrial may allow uses which may generate wastewater that does not meet residential strength. *Any change in the wastewater characteristic from residential strength would represent a violation of the COSA and the terms of the septic system permit issued by this office.*
- Connection to municipal sewer would eliminate this issue; municipal services serve an adjacent subdivision with water and sewer mains located in Demersville Road.
- It is the recommendation of this office that the property connect to municipal services as a condition of this proposed zoning change.
- James Chilton, Operations Manager; Flathead County Solid Waste District
  - Comment: The District would request that a contract hauler bring solid waste to the landfill if this zoning change would be granted and any further subdividing of the above referenced property would be developed into commercial lots. The District does not view a solid waste issue at this time.
- Dave Hayes, Fire Chief – Somers Volunteer Fire Department
  - Comment: See no reason to object to the request for the zone change per the application.

#### **IV. EVALUATION OF PROPOSED AMENDMENT**

##### **A. Build Out Analysis**

Once a specific zoning designation is applied in a certain area, landowners have certain land uses that are allowed “by-right.” A build-out analysis is performed to examine the maximum potential impacts of full build-out of those “by-right” uses. It is typically done by looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not “best-case” or “worst case” scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses

are simply establishing the meaning of the zone change to the future of the community to allow for the best possible review.

#### Current Zoning

As previously stated, the subject property is currently zoned “I-1H Light Industrial Highway”, a classification to “*provide for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.) that extend beyond the lot lines. The district is intended for industrial areas which are located along state and federal highways and contain greater levels of performance and mitigation utilizing increased setbacks, landscape buffering, access control and signage restriction for the purpose of protecting the County’s major travel ways from unnecessary encroachments, limiting access points to encourage improved traffic flows and to preserve scenic corridors and entrance ways to major communities*” [Section 3.28.010 FCZR]. The following is a list of permitted uses in an “I-1H” zone:

1. Accessory apartments.
2. Animal related services such as pet grooming and training, veterinary clinics and animal hospitals, taxidermy, aviaries and farrier services.
3. Art foundries.
4. Auction yard, without livestock.
5. Automobile, RV, watercraft (new and used) and accessory sales.
6. Automobile service stations.
7. Boat sales, new and used.
8. Bus stations.
9. Car washes.
10. Cellular towers.
11. Churches and other places of worship.
12. Contractors’ storage yards and building supply outlets.
13. Day care centers.
14. Direct mailing and telemarketing.
15. Farm equipment sales.
16. Feed, seed and farm supply, including grain elevators.
17. Financial institutions.
18. Food stores, supermarkets, and delicatessens.
19. Health clubs.
20. Heating, ventilation, air conditioning and plumbing sales, service and repair.
21. Heavy equipment sales, rental and service.
22. High tech industrial business.
23. Hotels, motels.
24. Janitorial service.
25. Light assembly and manufacturing, fabrication and processing, repairing, packing, storage facilities, warehousing and distribution of products and equipment provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive,

hazardous or toxic. Examples of such uses would include but are not limited to the following:

- A. Automobile, bus, truck, boat and equipment washing, detailing, repairing, service and storage.
  - B. Manufacture of products such as clothing; furniture; fabricated wood, glass, plastic and metal products; leather and leather goods; medical, dental and optical products and equipment; and boat building.
  - C. Processing and manufacturing of food such as baked goods, dairy products, alcoholic beverages and beverage manufacturing and bottling.
  - D. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture.
  - E. Storage and warehousing such as mini-storage, boat and vehicle storage.
- 26. Lodges and fraternal and social organizations, provided that any such establishments shall not be conducted primarily for gain.
  - 27. Lumber yards, building materials; storage and sales.
  - 28. Manufactured home sales and storage.
  - 29. Nurseries and landscape materials, wholesale and retail.
  - 30. Offices.
  - 31. Parcel delivery services.
  - 32. Parks and publicly owned recreational facilities.
  - 33. Public transportation shelter stations.
  - 34. Public utility service installations. (A minimum of five feet of landscaped area shall surround such building or structure.)
  - 35. Quasi-public buildings (fire stations, government offices, etc.)
  - 36. Radio and television broadcast stations.
  - 37. Recreational facilities, high-impact.
  - 38. Recreational facilities, low-impact.
  - 39. Recreational vehicle parks.
  - 40. Recycling drop-off stations.
  - 41. Rental stores and yards.
  - 42. Research laboratories and institutions.
  - 43. Retail sales and services.
  - 44. Restaurants.
  - 45. Security guard services.
  - 46. Theaters, housed in permanent indoor structures.
  - 47. Tire recapping and retreading.
  - 48. Truck terminals.
  - 49. Wholesale trade and warehousing.

The following uses are listed as conditional uses in an “I-1H” zone. An asterisk designates conditional uses that may be reviewed administratively:

- 1. Auction yards, livestock.

2. Colleges, business schools, trade schools, music conservatories, dance schools.
3. Commercial caretaker's facility in a detached accessory building in conjunction with a business.\*
4. Commercial recreation areas.
5. Communication towers/masts.
6. Convention hall facilities.
7. Electrical distribution stations.
8. Golf driving ranges and putting courses.
9. Landfills, sanitary for disposal of garbage and trash.
10. Mini-storage, RV storage.
11. Mortuaries.
12. Radio and television broadcast stations.
13. Recycling processing plants.
14. Taverns.
15. Temporary buildings or structures.\*
16. Water storage facilities.

Minimum lot size in an "I-1H" zone is 1 acre; the subject property is just over 7 acres in size. Under the existing scenario it appears the property could be subdivided to create up to seven individual lots based upon the current zoning designation. However, roughly half the property is currently developed, significantly limiting the potential for all seven lots to be created through subdivision in the future. Additionally, future development would need to take into account acreage lost to internal roadways, easements and necessary infrastructure, further reducing the number of lots able to be created. A Planned Unit Development (PUD) would be possible under the current "I-1H" zoning, and would be required to adhere to the design standards and guidelines for PUDs found in Section 3.31 of the zoning regulations. Cluster development is not an option in an "I-1H" zoning district.

Bulk and dimensional standards require minimum setbacks of 20 feet from the front and rear property boundaries, 10 feet from the side property boundaries and 20 feet from the side-corner property boundaries for all principal and accessory structures. Additional setback requirements apply when a property abuts a highway and has direct access (100 ft. setback), a highway with no direct access (35 ft. setback), a County Road with direct access (50 ft. setback), and streams (50 ft. setbacks); however, there are exemptions to these provisions identified in Section 3.28.040(4) FCZR. The maximum allowable building height is 40 feet for all structures, and there is no maximum lot coverage identified for this zone. Fence height restrictions are also unique to this district, as front yard fences are not permitted while side and rear yard fences may extend up to 10 ft. tall. The "I-1H" zoning classification also incorporates additional design standards for access, building design, landscaping and signage that apply to all properties within the district, to mitigate impacts resulting from industrial development along highway corridors.

### Proposed Zoning

The proposed zoning map amendment would change the zoning on the subject property from “I-1H” to “I-2 Heavy Industrial”, a district *“to provide for industrial uses to accommodate heavy manufacturing, processing, fabrication, and assembly of parts or materials. It is also intended that the encroachment of non-industrial or unspecified commercial uses within the district be prevented.”* The following is a list of permitted uses in an “I-2” zone:

1. Automobile repair shops.
2. Cellular towers.
3. Contractors’ yards.
4. Manufacturing, fabricating, processing, repairing, packing, or storage facilities. Such uses may include:
  - A. Boiler works.
  - B. Dry kilns.
  - C. Fuel oil sales and storage.
  - D. Log storage.
  - E. Wood products processing (plywood mills, lumber mills, pulpwood processing, fiberboard plants, etc.).
5. Parcel delivery services.
6. Parks.
7. Petroleum products, wholesale and retail.
8. Railroad yards.
9. Recycling processing plants.
10. Uses permitted in I-1.

The following uses are listed as conditional uses in an “I-2” zone:

1. Acid manufacture.
2. Airports, landing fields.
3. Automobile wrecking yards, junk yards, salvage yards.
4. Commercial caretaker’s facility in a detached accessory building in conjunction with a business.
5. Communication towers/masts.
6. Explosives manufacture.
7. Extractive industries and ore processing.
8. Heliports.
9. Landfills, sanitary for disposal of garbage and trash.
10. Pesticide manufacture.
11. Racetracks, motor-vehicle.
12. Sanitary landfills.
13. Sewage treatment plants.
14. Uses conditionally permitted in I-1.

Minimum lot size in an “I-2” zone is 7,500 sq. ft., less than ¼ of an acre in size. Under the proposed zoning the subject property could potentially be subdivided to

create forty-one (41) separate lots, nearly six times greater than the number of lots/density permitted under the existing “I-1H” zoning. Once again, future development would need to take into account acreage lost to internal roadways, easements and necessary infrastructure, in turn reducing the number of lots able to be created through this scenario. Similar to what is allowed under “I-1H”, the creation of a Planned Unit Development (PUD) would be possible in an “I-2” zone but cluster development would not be an option under the proposed zoning classification.

The bulk and dimensional standards under “I-2” zoning are similar with regard to setbacks, requiring a minimum setback of 20 feet from the front and rear property boundaries, 10 feet from the side property boundaries and 20 feet from the side-corner property boundaries for all principal and accessory structures. Additional setbacks of 20 feet are required from streams, rivers and unprotected lakes that do not serve as property boundaries, and from County roads classified as collector or major/minor arterials. There are no additional setback requirements for properties fronting highways in “I-2” districts. The maximum allowable building height is 60 feet for all structures, and there is no maximum lot coverage identified for this zone.

In summary, the requested zone change to “I-2” has the potential to increase development density through subdivision in the future. The map amendment would allow uses of an increased industrial intensity in addition to those currently permitted or conditionally permitted on the subject property; these uses would be similar to those allowed on adjacent properties, but would be a change from the type(s) and intensities currently permitted on the subject property. The change would also negate the additional design standards required in an “I-1H” zone. Impacts resulting from the potential for a PUD development would appear to be minimal given the character of the zoning classification, regulatory review process and requirements of a PUD proposal.

**B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)**

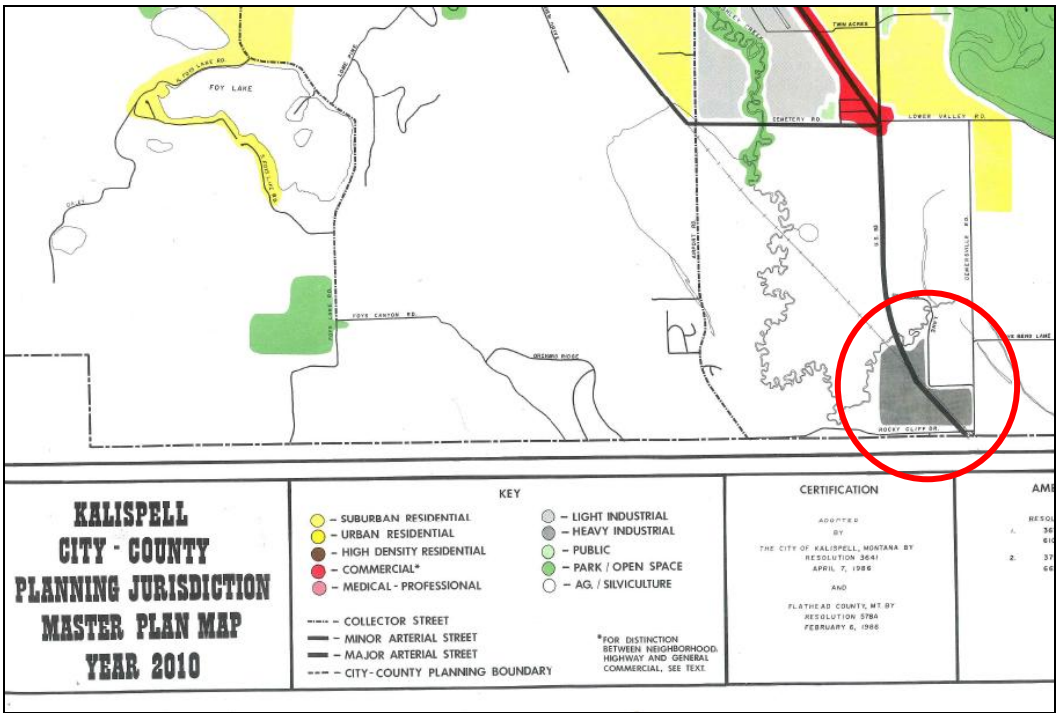
**i. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.**

The proposed zoning map amendment falls within the jurisdiction of both the Flathead County Growth Policy, adopted on March 19, 2007 (by Resolution #2015 A), and the Kalispell City-County Master Plan 2010, adopted by the Flathead County Commissioners on February 6, 1986 by Resolution #578A. The City-County Master Plan was incorporated as an element of the Growth Policy upon its adoption in 2007, and provides more specific guidance on land use for the areas of the County surrounding the city of Kalispell.

The Kalispell City-County Master Plan 2010 is comprised of three major components – the plan text, the master plan map and the specific goals and objectives identified throughout the document. This plan identifies these elements as “equally important” when weighing a land use application or request. As shown in Figure 5 below, the Master Plan Map designates the land use

applicable to this area of the County as “Heavy Industrial”, defined in the text of the plan as a district providing for “*manufacturing, processing, fabricating, warehousing, storage and distribution. The district should be of sufficient size to allow for future growth and expansion without unduly encroaching on adjacent uses. Community sewer and water services and immediate access to collector – arterial systems are required. Railroad access is beneficial. The encroachment of non-industrial uses within the district should be prevented. Where possible there should be a transition from heavy industrial to other less intense land uses. Additional setbacks, natural or man-made barriers, landscaping, screening, etc. should be incorporated wherever heavy industrial districts border residential or commercial areas.*” The text of the plan specifically identifies the area along U.S. Highway 93, south of Kalispell and between Ashley Creek and Rocky Cliff Drive as appropriate for the future expansion of heavy industrial use.

**Figure 5:** Designated Land Use Map area applicable to subject property.



In addition to the Master Plan Map and text, the following goals and objectives found within the Kalispell City-County Master Plan 2010 are generally applicable to the requested zoning map amendment:

- Under Goal 6 – Land Use:  
P.6(d) – Designate areas within the Planning Jurisdiction which are suitable for heavy industrial. Such areas should have adequate access to rail and highway, be of sufficient size to allow for future expansion, be generally level and well-drained, and be adequately buffered from residential and commercial uses.

- The proposed map amendment is located in an area identified as suitable for heavy industrial development based upon the Master Plan Map, has access to highway infrastructure, is of a sufficient size to accommodate the uses allowable, is generally level and not presently adjacent to any residential or commercial zoning and/or land use(s).
- Under Goal 8 – Public Facilities
  - P.8(e) - Require adequate treatment of industrial waste and avoid storing or locating industrial waste in areas of high groundwater without taking necessary precautions to avoid groundwater contamination.
    - The subject property currently utilizes onsite well and septic facilities to supply water and treat wastewater produced by the current development. The site was monitored for high groundwater prior to receiving approval from the Montana Department of Environmental Quality (DEQ) for the existing well and septic systems; there were no areas found to be susceptible to high groundwater onsite.

In addition to general compliance with the Kalispell City-County Master Plan 2010, the proposed map amendment must also be reviewed to ensure compliance with the Flathead County Growth Policy. The Designated Land Use Map incorporated within the Growth Policy identifies this area as “Industrial”, and the following goals and policies are applicable to, and generally supportive of the requested zoning map amendment:

- G.5 - Adequate industrial land in areas that are close enough to goods and services to be efficient but far enough from other uses to offset objectionable impacts to the human and natural environment.
- P.5.1 - Match requirements of industrial land uses (such as human resources, adequate water supply, suitable road network) and areas of Flathead County where those requirements can best be met.
- P.5.2 - Promote industrial parks and centers that take advantage of infrastructure and minimize impacts to the environment or adjacent land uses.
- P.5.5 - Restrict industrial uses that cannot be mitigated near incompatible uses such as residential, schools, environmentally sensitive areas such as wetlands, floodplains, riparian areas, areas of shallow groundwater, etc.
- P.21.1 - Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.
- P.22.2 - Promote business centers and industrial parks in areas served by sufficient infrastructure with consideration to proximity to population densities.

**Finding #1** – The proposed zoning map amendment appears to comply with the Kalispell City-County Master Plan 2010 because it is generally supported

by the text of the plan and applicable goals and objectives regarding heavy industrial land use in the planning area, and because the proposed “I-2 Heavy Industrial” zoning classification would comply with the underlying “heavy industrial” land use designation identified by the Master Plan Map.

**Finding #2** - The proposed zoning map amendment appears to comply with the Flathead County Growth Policy because applicable goals and policies generally support the request, the proposal complies with the “industrial” land use designation identified by the Designated Land Use Map, and because the proposed amendment generally complies with the Kalispell City-County Master Plan 2010 adopted as an extension of the Growth Policy document.

**ii. Whether the proposed map amendment is designed to:**

**1. Secure safety from fire and other dangers;**

The subject property is a corner lot with existing driveway access directly onto Snowline Lane and Demersville Road. Both roadways are public County roads maintained by the County Road and Bridge Department. Layout of the existing development on the subject property would allow for adequate circulation throughout the property as well as access to each building in the event of a structural fire. The subject property is located within the Lakeside/Somers Fire District and would be served by the Somers Volunteer Fire Department in the event of an emergency; the nearest fire station is located approximately 5 road-miles south of the subject property on Lesley Avenue in Somers. Comment received from the Somers Volunteer Fire Department’s Fire Chief was supportive of the requested zoning map amendment, indicating the existing level of service would continue should the zone change request receive approval.

In addition, the property would continue to be served by the Flathead County Sheriff’s Department in the event of emergency, and would likely utilize the Kalispell Regional Medical Center and ground ambulance transport for medical emergencies. The Medical Center is located 5.5 miles north of the subject property on Sunnyview Lane.

**Finding #3** - The proposed map amendment would be able to secure safety from fire and other dangers because the subject property may be accessed from two paved public County roadways; adequate circulation is provided throughout the subject property; and because the property would continue to be served by the Somers Volunteer Fire Department and the Flathead County Sheriff’s Department in the event of an emergency.

**2. Promote public health, public safety, and general welfare;**

As previously discussed, the subject property may be accessed using either Demersville Road or Snowline Lane, both public County roadways maintained in good condition. The property is located within a fire district

capable of providing fire and emergency medical services and would also be served by the Flathead County Sheriff in the event of an emergency onsite.

Current development on the property utilizes a shared well and a multi-user septic system, with an additional multi-user well planned to accommodate future development onsite. These systems have previously undergone review and received approval from the Montana DEQ for a very specific build-out plan based upon the current “I-1H” zoning in place. The proposed map amendment to “I-2 Heavy Industrial” would allow for additional uses – and intensities of use – characteristically different than what is currently allowed on the subject property. Were the zone change approved and the applicant – or future property owners – were to exercise their right to these heavy industrial uses, the existing water and sewer facilities may no longer be adequate for the types of uses allowed; at the very least, a change in use from those currently approved would require re-review and the issuance of a new COSA (Certificate of Subdivision Approval) for the subject property. Comment received from the Environmental Health Department recommended connecting to existing public water and sewer utilities located within the Demersville Road and Utility easement to the east, to ensure the adequate treatment of industrial waste that could be anticipated as a result of the proposed zoning map amendment. This comment was based upon the current approved system’s inability to accommodate wastewater other than residential.

While public utilities are clearly present and available to serve the subject property, a zoning map amendment cannot be conditioned to require connection to these facilities. Groundwater monitoring conducted on the subject property showed no evidence of high groundwater that may potentially be impacted by such uses. The potential impacts to public health and safety as a result of the proposed zoning map amendment are therefore unclear; while the subject property currently has the ability to accommodate light industrial uses as reviewed and approved by the DEQ, future heavy industrial uses may not be able to be adequately accommodated by the existing facilities. It is anticipated that the review process required by DEQ for a change in use on the property would ensure that the onsite systems could either be designed to supply and adequately treat industrial wastewater, or the property would be required to connect to public facilities located in the adjacent road and utility easement.

**Finding #4** – The proposed zoning map amendment is anticipated to have minimal impacts to public health, safety and welfare because the property may be accessed via paved public County roads, can be served by the local fire district and sheriff’s department in the event of an emergency, currently utilizes approved onsite well and septic facilities and shows no evidence of high groundwater that may be impacted by heavy industrial uses allowed as a result of the proposed zone change request.

**Finding #5** – The current onsite well and septic facilities have been designed and constructed to serve the existing light industrial uses on the subject property, and may not be adequate to serve the potential heavy industrial uses permitted as a result of the proposed zone change request. However, re-review of these facilities by the Montana DEQ would be required as a result of any change in use on the subject property, and public water and sewer utilities abut and are available to serve the subject property as recommended by the County Sanitarian.

**3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.**

The proposed zoning map amendment would change the light industrial zoning designation on the subject property to heavy industrial, and would have no impact on schools or parks as a result of this change. The subject property is located at the corner of two paved public County roads – Snowline Lane and Demersville Road. Both roads direct traffic onto U.S. Highway 93 South via controlled intersections to the immediate west and south of the subject property. The existing transportation infrastructure appears adequate to serve the potential uses associated with the proposed zone change from “I-1H” to “I-2”, as these roads currently accommodate traffic generated by the light and heavy industrial uses located in the immediate vicinity.

As previously discussed, the on-site well and septic facilities have been reviewed and approved as adequate to accommodate the existing light industrial uses, but may not be able to accommodate certain heavy industrial uses permitted within an “I-2” zone. Should re-review by the Montana DEQ find that on-site water and sewer facilities are inadequate to serve future industrial uses, the applicant may be required to connect into existing public water and sewer utility mains located along Demersville Road. Comment from the Environmental Health Department indicated this was the preferred scenario for the provision of water and sewerage as a result of the proposed zoning map amendment.

**Finding #6** – The proposed zone change would facilitate the adequate provision of transportation, water and sewerage because the property has access to existing infrastructure capable of handling traffic generated by heavy industrial uses; and because public water and sewer utilities are located adjacent to the property within the Demersville Road easement, are capable of providing service to the site and would be better suited to handle wastewater produced by heavy industrial uses. No impacts to schools and parks are anticipated because of the industrial nature of the proposed zoning map amendment.

**iii. In evaluating the proposed map amendment, consideration shall be given to:**

**1. The reasonable provision of adequate light and air;**

Bulk and dimensional requirements of the respective zoning classification ensure the reasonable provision of light and air, as they serve to regulate minimum setbacks requirements, lot coverage limitations and maximum building height, among other things. As identified in the build-out analysis found in Section IV.A above, the general setback requirements for an “I-2” zone are identical to the setback requirements of the “I-1H”. However, “I-2” zoning does not require additional setbacks from highways or County roads, and only requires a 20 ft. setback from streams and rivers as opposed to the 50 ft. setback from these features required in an “I-1H” district. While this appears to be a fairly significant change, the subject property is not adjacent nor has access onto a highway, is not bounded by a stream, and current development on the subject property either complies with the general setbacks to begin with or, in the case of the mini-storage buildings located on the north side of the property, is grandfathered under the zoning.

While neither classification identifies a maximum lot coverage allowed, “I-2” zoning does allow a maximum building height of 60 ft., as opposed to the 40 ft. allowable in an “I-1H” zone. The change in zoning would also reduce the minimum lot size requirement applicable to the subject property, the result of which could significantly increase the development potential from on the subject property. While there is certainly the potential for increased development density as a result of the proposed zoning map amendment, the bulk and dimensional requirements would serve to mitigate some of the impacts; additionally, lots created through subdivision would still be required to meet the minimum setback and height restrictions of the zone.

**Finding #7** - The proposed zoning map amendment would ensure adequate light and air be available to the subject property and surrounding area because the general setback requirements of the proposed zoning designation are identical to the requirements of the existing zoning, consistent with surrounding properties, and these as well as other bulk and dimensional requirements would continue to apply were the property to be subdivided in the future.

**2. The effect on motorized and non-motorized transportation systems;**

As previously discussed, the existing transportation system appears adequate to accommodate the proposed change in zoning, from light to heavy industrial. Both Demersville Road and Snowline Lane are paved, public County roads, in good condition and currently serving adjacent properties zoned for heavy industrial use. Both roads direct traffic onto U.S. Highway 93 in two separate locations via controlled access points. U.S. Highway 93 is one of the primary transportation corridors serving Flathead County and has been constructed to accommodate a high level of traffic, in both amount and intensity of use. An existing bicycle/pedestrian path runs along the east side

of U.S. Highway 93, intersecting both Snowline and Demersville Road where they enter onto the highway. It is not anticipated the proposed change in zoning would have a significant impact on this trail system, due to the current build-out of the area, existing heavy industrial uses and the measures in place to control both the bike path crossings and the intersections onto the highway.

**Finding #8** – Effects on motorized and non-motorized transportation systems will be minimal because the existing infrastructure appears adequate to accommodate the change in zoning, and because the change will not have an impact on the existing bicycle/pedestrian trail any more or less significant than the impacts resulting from the current zoning and existing use(s).

**3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);**

The zoning map amendment from “I-1H” to “I-2” is being proposed in an area that is currently a mix of industrial zoning and land uses, and adjacent to property that has been annexed into the City of Kalispell. The Kalispell City-County Master Plan 2010 identified this specific area as being well-suited for heavy industrial uses, and the current zoning in place reflects the industrial nature of the area. Land to the immediate west and south of the subject property is currently zoned for heavy industrial use, while land to the immediate east (and within the City of Kalispell’s jurisdiction) is zoned for light industrial use. While the “I-1H” zoning in place is currently compatible with the character of the area, the proposed zoning map amendment to “I-2” would be similarly compatible, given the underlying land use, surrounding zoning and existing land uses.

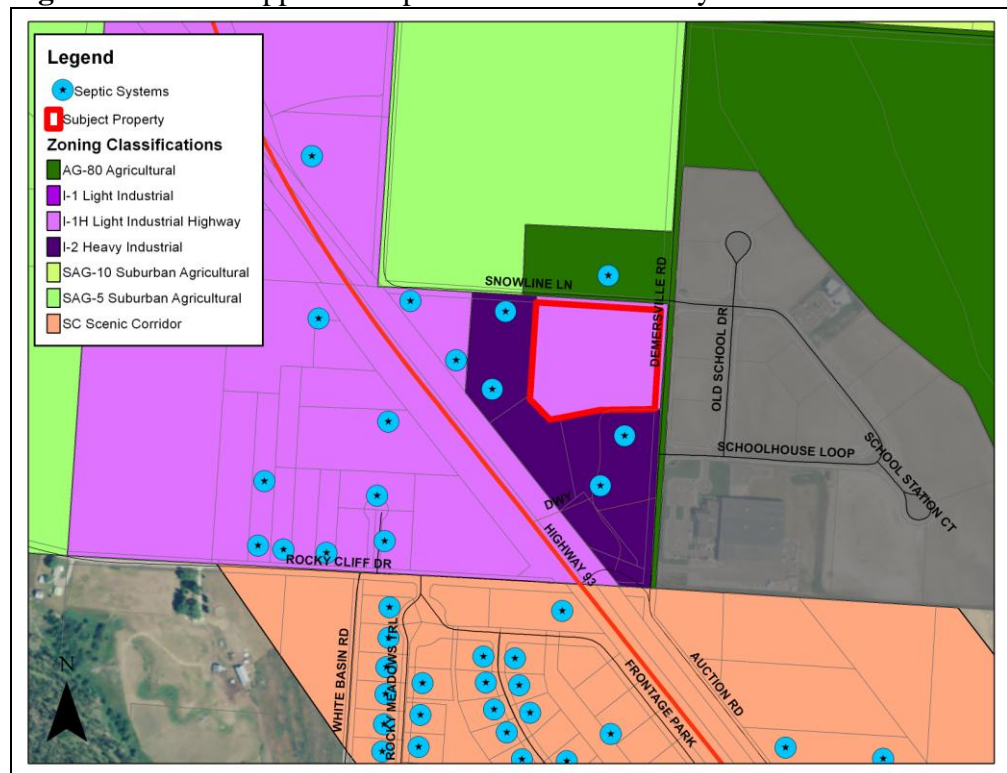
**Finding #9** - The proposed zoning map amendment appears to support compatible industrial growth within the vicinity of the City of Kalispell because the area has been designated for industrial use, the zoning in place surrounding the subject property is a mix of light and heavy industrial classifications, and current land uses in the area reflect this mixture of zoning.

**4. The character of the district(s) and its peculiar suitability for particular uses;**

The prevailing character of the area is industrial, with uses ranging from light to heavy industrial along U.S. Highway 93 and on land immediately adjacent to the east, west and south of the subject property. The Kalispell City-County Master Plan 2010 identified this area as specifically suited for future growth and expansion of heavy industrial uses, and the current zoning in place reflects the industrial nature of the area. As previously discussed, the transportation network serving the subject property appears adequate to accommodate the potential for heavy industrial uses, and although not currently serving the subject property, public utilities exist and would be available to serve future heavy industrial uses (if required by MDEQ). Comment from the Environmental Health Department, as well as discussion

found within the text of the Master Plan, indicate public utilities are preferable to serve the potential heavy industrial uses that could occur onsite. However, heavy industrial properties to the west and south – as well as the majority of light industrial properties located along U.S. Highway 93 – utilize individual or multi-user septic facilities at this time (see Figure 6 below).

**Figure 6:** Current approved septic locations in vicinity.



**Finding #10–** The proposed zoning map amendment would be suitable for the subject property because the prevailing character of the area is industrial, with “I-2 Heavy Industrial” zoning to the immediate south and west of the subject property; because there appears to be adequate infrastructure available to serve potential heavy industrial uses; and because although public water and sewer is preferable and recommended, it is not uncommon for industrial uses in this area to utilize onsite septic facilities.

**5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**

It is not anticipated the value of existing buildings onsite would be affected by the proposed zoning map amendment. The buildings are currently utilized for light industrial purposes, and the applicant has proposed these uses will continue. The subject property is currently bordered on two sides by heavy industrial uses, sharing access drives with both properties. Should the current

use of the property and the existing buildings onsite transition to heavy industrial over time as a result of the proposed map amendment, this change would be consistent with the character of the general area and the existing heavy industrial land uses to the south and west.

**Finding #11** – The zoning map amendment would conserve the value of buildings and encourage the appropriate use of land throughout the jurisdiction because the buildings on the subject property are industrial in nature, the subject property shares access with the neighboring properties, and those neighboring properties are similarly zoned “I-2 Heavy Industrial”.

**iv. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.**

The proposed change in zoning is unlikely to have an effect on, or be any more or less compatible with the adjacent municipal zoning. The subject property is bordered to the east by land recently annexed into the City of Kalispell. The property annexed was subsequently zoned “I-1 Light Industrial” by the City, a designation intended to *“provide areas for light industrial, research and technology.”* While uses within the existing “I-1H” zoning may appear more compatible with the City’s “I-1” classification, the bulk and dimensional requirements of the City’s “I-1” classification and the County’s “I-2” classification are very similar. Furthermore, land adjacent to the subject property and across from the City’s jurisdiction has already been zoned for heavy industrial use. The Kalispell City-County Master Plan Map identified the entire area – including the land currently annexed into the City of Kalispell – as appropriate for heavy industrial land uses, and this plan serves as the foundation upon which much of the zoning in the area has been based. Although solicited, no comment was provided by the City of Kalispell on the proposed zoning map amendment.

**Finding #12** – The proposed zoning map amendment would be generally consistent and compatible with the zoning ordinance of the City of Kalispell because there are similarities between the County’s “I-2” zoning classification and the City’s “I-1” zoning classification, and because the proposed zoning map amendment complies with the City-County Master Plan land use map upon which the City’s zoning ordinance was based.

**V. SUMMARY OF FINDINGS**

**Finding #1** – The proposed zoning map amendment appears to comply with the Kalispell City-County Master Plan 2010 because it is generally supported by the text of the plan and applicable goals and objectives regarding heavy industrial land use in the planning area, and because the proposed “I-2 Heavy Industrial” zoning classification would comply with the underlying “heavy industrial” land use designation identified by the Master Plan Map.

**Finding #2** - The proposed zoning map amendment appears to comply with the Flathead County Growth Policy because applicable goals and policies generally support the

request, the proposal complies with the “industrial” land use designation identified by the Designated Land Use Map, and because the proposed amendment generally complies with the Kalispell City-County Master Plan 2010 adopted as an extension of the Growth Policy document.

**Finding #3** - The proposed map amendment would be able to secure safety from fire and other dangers because the subject property may be accessed from two paved public County roadways; adequate circulation is provided throughout the subject property; and because the property would continue to be served by the Somers Volunteer Fire Department and the Flathead County Sheriff’s Department in the event of an emergency.

**Finding #4** – The proposed zoning map amendment is anticipated to have minimal impacts to public health, safety and welfare because the property may be accessed via paved public County roads, can be served by the local fire district and sheriff’s department in the event of an emergency, currently utilizes approved onsite well and septic facilities and shows no evidence of high groundwater that may be impacted by heavy industrial uses allowed as a result of the proposed zone change request.

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designated for industrial use, the zoning in place surrounding the subject property is a mix of light and heavy industrial classifications, and current land uses in the area reflect this mixture of zoning.

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## **VI. CONCLUSION**

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposed zoning map amendment to generally comply with the review criteria based on 11 of the 12 Findings of Fact above.